

## Article - Environment

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§4–116.

(a) (1) Any person who violates any provision of this subtitle is guilty of a misdemeanor, and upon conviction in a court of competent jurisdiction is subject to a fine not exceeding \$10,000 or imprisonment not exceeding one year or both for each violation with costs imposed in the discretion of the court.

(2) The court may order the person to restore the area unlawfully disturbed.

(3) Each day upon which the violation occurs constitutes a separate offense.

(b) Any agency whose approval is required under this subtitle or any interested person may seek an injunction against any person who violates or threatens to violate any provision of this subtitle.

(c) (1) In addition to any other sanction under this subtitle, the appropriate State, county, or municipal agency may bring a civil action against a person for a violation of this subtitle.

(2) (i) The action may seek the imposition of a civil penalty up to \$10,000 for each violation.

(ii) In imposing a penalty under this paragraph, the court may consider the cost of restoring the area unlawfully disturbed.

(3) (i) A county or municipal agency that recovers penalties in accordance with this subtitle shall deposit them in a special fund, to be used solely for:

1. Correcting to the extent possible the failure to implement or maintain erosion and sediment controls; and

2. Administration of the sediment control program.

(ii) A State agency that recovers penalties in accordance with this subtitle shall deposit them into the Maryland Clean Water Fund established under § 9–320 of this article.

(d) If a county or municipality fails to enforce any provision of this subtitle, the Department may request the Attorney General to take appropriate legal action to correct the violation and to recover penalties or fees under this section.

(e) (1) In addition to any other remedies available at law or in equity and after an opportunity for a hearing which may be waived in writing by the person accused of a violation, the Department may impose a penalty on any person who violates any provision of this subtitle or any regulation or plan adopted, approved, or issued under this subtitle. Any request for a hearing on a penalty issued under this subsection must be made in writing no later than 10 working days after receipt of the notice assessing a penalty.

(2) The penalty imposed on a person under this subsection shall be:

(i) Up to \$1,000 for each violation, but not exceeding \$20,000 total for any action; and

(ii) Assessed with consideration given to:

1. The willfulness of the violation, the extent to which the existence of the violation was known to but uncorrected by the violator, and the extent to which the violator exercised reasonable care;

2. Any actual harm to the environment or to human health, including injury to or impairment of the use of the waters of this State or the natural resources of this State;

3. The cost of cleanup and the cost of restoration of natural resources;

4. The nature and degree of injury to or interference with general welfare, health, and property;

5. The extent to which the location of the violation, including location near waters of this State or areas of human population, creates the potential for harm to the environment or to human health or safety;

6. The available technology and economic reasonableness of controlling, reducing, or eliminating the violation;

7. The degree of hazard posed by the particular pollutant or pollutants involved;

8. The extent to which the current violation is part of a recurrent pattern of the same or similar type of violation committed by the violator; and

9. Whether or not penalties were assessed or will be assessed under other provisions of this subtitle.

(3) Each day a violation occurs is a separate violation under this subsection.

(4) Any penalty imposed under this subsection is payable to the State and collectible in any manner provided at law for the collection of penalties.

(5) Any penalty collected under this subsection or for a violation of § 4–413 of this title shall be placed in the Maryland Clean Water Fund established under § 9–320 of this article.

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